

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

13	GSI TECHNOLOGY, INC.,)	Case No. 5:13-cv-01081-PSG
14)	
14	Plaintiff,)	AMENDED FINAL JURY
15)	INSTRUCTION NO. 33
15	v.)	
16)	
16	UNITED MEMORIES, INC., et al.,)	
17)	
17	Defendants.)	
18)	

33. CONTRACT PERFORMANCE – BREACH OF CONTRACT – ELEMENTS OF LIABILITY

I have already found that GSI entered into a contract with UMI in which UMI agreed (1) not to compete with GSI, directly or indirectly, for the design of a LLDRAM chip until at least April 30, 2013; (2) to protect GSI's confidential information; and (3) that GSI would own all circuit schematics and associated intellectual property, excluding Project Patents and intellectual property developed prior to or independent from the contract between GSI and UMI, as "deliverables" under the contract.

For GSI to recover from the UMI on GSI's claim of breach of contract, you must find either of the following have been proved by a preponderance of the evidence:

1. UMI failed to comply with its obligation not to compete with GSI, directly or indirectly, for the design of an LLDRAM chip;
2. UMI failed to protect confidential information in GSI's schematics; or
3. UMI allowed ISSI to access and use circuit schematics and associated intellectual property owned by GSI.

If you find that none of these statements has been proved, then your verdict must be for UMI.


On the other hand, if you find that one or more of these statements have been proved, then you must consider UMI'S affirmative defenses.

If you find that UMI proved any one or more of these affirmative defenses by a preponderance of the evidence, then your verdict must be for UMI.

However, if you find that none of these affirmative defenses have been proved, then your verdict must be for GSI.

1 **SO ORDERED.**

2 Dated: November 23, 2015

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4 PAUL S. GREWAL
5 United States Magistrate Judge
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